IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

CRL.A.No. 573 of 2002(A)

CC.763/2000 of JUDL.MAGISTRATE OF FIRST CLASS COURT -I, ALAPPUZHA

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APPELLANT: APPELLANT/COMPLAINANT:

A.MUHAMMED ASHARAF,
S/O. ABDUL KHADER, THOOMBUNGAL HOUSE,
KAKKAZHOM P.O., ALAPPUZHA.

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENTS: ACCUSED & STATE

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1. KABEER @ KOZHIPPURATHU KABEER,
S/O. MOIDUNNI, AMBALATHU HOUSE, ORUMANAYUR AMSOM,
THYKKADAVU DESOM, CHAVAKKADU.

2. STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.598 of 2002

Dated this the 25th day of September, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 25.10.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl